

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
---	---

In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court NEW JERSEY on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. 08-1021	DATE FILED 2/22/2008	U.S. DISTRICT COURT NEW JERSEY
PLAINTIFF WYETH CORDIS CORPORATION		DEFENDANT MEDTRONIC, INC. MEDTRONIC AVE, INC.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,516,781		SEE ATTACHED COMPLAINT
2 5,563,146		
3 5,665,728		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK WILLIAM T. WALSH	(BY) DEPUTY CLERK <i>Thomas D. Ellery</i>	DATE 2/27/2008
----------------------------------	--	-------------------

Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

DEMAND FOR JURY TRIAL

Cordis demands a trial by jury of any and all issues triable of right before a jury.

Dated: February 22, 2008

By:

s/Donald A. Robinson
Donald A. Robinson
Keith J. Miller
ROBINSON, WETTRE & MILLER LLC
2 Penn Plaza East, 11th Floor
Newark, NJ 07105
(973) 690-5400
-and-

David T. Pritikin
William H. Baumgartner, Jr.
Russell E. Cass
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, Illinois 60603
Telephone: (312) 853-7000

ATTORNEYS FOR PLAINTIFF WYETH
and CORDIS CORPORATION

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

I hereby certify that the matter in controversy is related to the following actions presently pending before this Court:

Cordis v. Abbott Laboratories and Abbott Cardiovascular Systems
Civil Action No. 07-2265 (JAP)

Cordis v. Abbott Laboratories and Abbott Cardiovascular Systems
Civil Action No. 07-2477 (JAP)

Cordis v. Abbott Laboratories and Abbott Cardiovascular Systems
Civil Action No. 07-2728 (JAP)

Wyeth and Cordis v. Abbott Laboratories and Abbott Cardiovascular Systems
Civil Action No. 07-5636 (JAP)

Wyeth and Cordis v. Abbott Laboratories, Abbott Cardiovascular Systems,
Boston Scientific and Boston Scientific Scimed, Inc.
Civil Action No. 08-230 (JAP)

Wyeth and Cordis v. Boston Scientific and Boston Scientific Scimed, Inc.
Civil Action No. 08-522 (JAP)

Dated: February 22, 2008

By:

s/Donald A. Robinson
Donald A. Robinson
Keith J. Miller
ROBINSON WETTRE & MILLER LLC
2 Penn Plaza East, 11th Floor
Newark, NJ 07105
(973) 690-5400
-and-

David T. Pritikin
William H. Baumgartner, Jr.
Russell E. Cass
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, Illinois 60603
Telephone: (312) 853-7000

ATTORNEYS FOR PLAINTIFF WYETH and
CORDIS CORPORATION

Donald A. Robinson
Keith J. Miller
ROBINSON, WETTRE & MILLER LLC
2 Penn Plaza East, 11th Floor
Newark, NJ 07105
(973) 690-5400

David T. Pritikin
William H. Baumgartner, Jr.
Russell E. Cass
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000

Attorneys for Plaintiffs
Wyeth and Cordis Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

WYETH)	
)	
and)	
)	Civil Action No. _____
CORDIS CORPORATION,)	
)	COMPLAINT AND DEMAND
Plaintiffs,)	FOR JURY TRIAL
)	
vs.)	Document Filed Electronically
)	
)	
MEDTRONIC, INC., and)	
MEDTRONIC AVE, INC.,)	
)	
Defendants.)	

Plaintiffs Wyeth and Cordis Corporation (collectively "Plaintiffs"), by their attorneys, allege as follows:

THE PARTIES

1. Plaintiff Wyeth, Five Giralda Farms, Madison, New Jersey is a Delaware Corporation with a place of business in Madison, New Jersey. Wyeth is a global leader in

developing pharmaceutical drugs and treatments, and has developed and continues to develop innovative treatments across a wide range of therapeutic areas.

2. Plaintiff Cordis Corporation ("Cordis"), 33 Technology Drive, Warren, New Jersey, is a Florida corporation with a principal place of business in Warren, New Jersey. Cordis also has facilities in Clark, New Jersey. Cordis is a pioneer in developing invasive treatments for vascular disease, including the CYPHER[®] drug-eluting stent, a drug/device combination for the treatment of coronary artery disease.

3. Upon information and belief, Defendant Medtronic, Inc., is a corporation organized and existing under the laws of the State of Minnesota, with a principal place of business at 710 Medtronic Parkway, Minneapolis, Minnesota 55432. Upon information and belief, Defendant Medtronic AVE, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 3576 Unocal Place, Santa Rosa, California 95403. Medtronic, Inc. and Medtronic AVE, Inc. will be collectively referred to herein as "Medtronic."

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States (35 U.S.C. § 1, *et seq.*).

5. This Court has subject matter jurisdiction over Plaintiffs' patent infringement claims under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Medtronic. On information and belief, Medtronic has systematic and continuous contacts in this judicial District, regularly transacts business within this judicial District, and regularly avails itself of the benefits of this judicial District. For example, Medtronic is registered to do business in New Jersey, and has

developing pharmaceutical drugs and treatments, and has developed and continues to develop innovative treatments across a wide range of therapeutic areas.

2. Plaintiff Cordis Corporation ("Cordis"), 33 Technology Drive, Warren, New Jersey, is a Florida corporation with a principal place of business in Warren, New Jersey. Cordis also has facilities in Clark, New Jersey. Cordis is a pioneer in developing invasive treatments for vascular disease, including the CYPHER[®] drug-eluting stent, a drug/device combination for the treatment of coronary artery disease.

3. Upon information and belief, Defendant Medtronic, Inc., is a corporation organized and existing under the laws of the State of Minnesota, with a principal place of business at 710 Medtronic Parkway, Minneapolis, Minnesota 55432. Upon information and belief, Defendant Medtronic AVE, Inc. is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 3576 Unocal Place, Santa Rosa, California 95403. Medtronic, Inc. and Medtronic AVE, Inc. will be collectively referred to herein as "Medtronic."

JURISDICTION AND VENUE

4. This action arises under the Patent Laws of the United States (35 U.S.C. § 1, *et seq.*).

5. This Court has subject matter jurisdiction over Plaintiffs' patent infringement claims under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Medtronic. On information and belief, Medtronic has systematic and continuous contacts in this judicial District, regularly transacts business within this judicial District, and regularly avails itself of the benefits of this judicial District. For example, Medtronic is registered to do business in New Jersey, and has

facilities located in this District, including in Mount Arlington, Eatontown, Fairfield, and East Rutherford, New Jersey. On information and belief, Medtronic also has numerous employees in this District, derives substantial revenues from its business operations and sales in this district, and pays taxes in New Jersey based on revenue generated in this District. On information and belief, Medtronic also sells and distributes medical devices in this District, including vascular devices.

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

FACTUAL ALLEGATIONS

8. Medtronic is the manufacturer of a drug-eluting stent named the Medtronic Endeavor Zotarolimus-Eluting Coronary Stent System (the "Endeavor stent"). Medtronic has manufactured thousands of Endeavor stents in the United States for sale in the United States, Europe and Asia. In July 2005, Medtronic received CE Mark approval for the commercial sale of the Endeavor stent in European Union member countries. On February 1, 2008, Medtronic received approval from the United States Food and Drug Administration ("FDA") for the commercial sale of the Endeavor stent in the United States. On information and belief, Medtronic is offering for sale and/or selling the Endeavor stent in the United States.

9. On May 12, 1994, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 5,516,781, entitled "Method of Treating Restenosis with Rapamycin" (the "'781 patent"). The '781 patent issued to Morris et al. Wyeth is the owner of the '781 patent. Wyeth has granted Cordis an exclusive license to practice the '781 patent in the field of percutaneous transluminal procedures in humans.

facilities located in this District, including in Mount Arlington, Eatontown, Fairfield, and East Rutherford, New Jersey. On information and belief, Medtronic also has numerous employees in this District, derives substantial revenues from its business operations and sales in this district, and pays taxes in New Jersey based on revenue generated in this District. On information and belief, Medtronic also sells and distributes medical devices in this District, including vascular devices.

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

FACTUAL ALLEGATIONS

8. Medtronic is the manufacturer of a drug-eluting stent named the Medtronic Endeavor Zotarolimus-Eluting Coronary Stent System (the "Endeavor stent"). Medtronic has manufactured thousands of Endeavor stents in the United States for sale in the United States, Europe and Asia. In July 2005, Medtronic received CE Mark approval for the commercial sale of the Endeavor stent in European Union member countries. On February 1, 2008, Medtronic received approval from the United States Food and Drug Administration ("FDA") for the commercial sale of the Endeavor stent in the United States. On information and belief, Medtronic is offering for sale and/or selling the Endeavor stent in the United States.

9. On May 12, 1994, the United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 5,516,781, entitled "Method of Treating Restenosis with Rapamycin" (the "'781 patent"). The '781 patent issued to Morris et al. Wyeth is the owner of the '781 patent. Wyeth has granted Cordis an exclusive license to practice the '781 patent in the field of percutaneous transluminal procedures in humans.

10. On October 8, 1996, the USPTO duly and legally issued United States Patent No. 5,563,146, entitled "Method of Treating Hyperproliferative Vascular Disease" (the "'146 patent"). The '146 patent issued to Morris et al. Wyeth is the owner of the '146 patent. Wyeth has granted Cordis an exclusive license to practice the '146 patent in the field of percutaneous transluminal procedures in humans.

11. On September 9, 1997, the USPTO duly and legally issued United States Patent No. 5,665,728, entitled "Method of Treating Hyperproliferative Vascular Disease" (the "'728 patent"). The '728 patent issued to Morris et al. Wyeth is the owner of the '728 patent. Wyeth has granted Cordis an exclusive license to practice the '728 patent in the field of percutaneous transluminal procedures in humans.

12. Medtronic has been and is infringing the claims of the '781, '146, and '728 patents by, including but not limited to, making, using, selling and/or offering to sell the Endeavor stent in the United States for use by physicians in coronary angioplasty procedures.

13. Before Medtronic's entry into the market, only two companies marketed drug eluting stents in the United States – Cordis and Boston Scientific Corporation. On February 1, 2008, Medtronic received approval from the FDA for the commercial sale of the Endeavor stent in the United States. Medtronic publicly announced that it intends to immediately market the Endeavor stent in the United States upon FDA approval. The Endeavor stent will compete directly with Cordis's CYPHER stent, reducing Cordis's market share, impairing customer good will, and causing irreparable harm to Cordis.

COUNT I: INFRINGEMENT OF THE '781 PATENT

14. Plaintiffs reallege paragraphs 1-13 above as if fully set forth herein.

15. Medtronic is directly infringing, contributorily infringing, and/or inducing infringement of the '781 patent in violation of 35 U.S.C. § 271, by, including but not limited to, making, using, importing, selling and/or offering to sell the Endeavor stent in the United States for use by physicians in coronary angioplasty procedures.

16. Medtronic had and has actual notice of the '781 patent, and is infringing the '781 patent with knowledge of Cordis's patent rights. Medtronic's actions are willful and deliberate.

COUNT II: INFRINGEMENT OF THE '146 PATENT

17. Plaintiffs reallege paragraphs 1-13 above as if fully set forth herein.

18. Medtronic is directly infringing, contributorily infringing, and/or inducing infringement of the '146 patent in violation of 35 U.S.C. § 271, by, including but not limited to, making, using, importing, selling and/or offering to sell the Endeavor stent in the United States for use by physicians in coronary angioplasty procedures.

19. Medtronic had and has actual notice of the '146 patent, and is infringing the '146 patent with knowledge of Cordis's patent rights. Medtronic's actions are willful and deliberate.

COUNT III: INFRINGEMENT OF THE '728 PATENT

20. Plaintiffs reallege paragraphs 1-13 above as if fully set forth herein.

21. Medtronic is directly infringing, contributorily infringing, and/or inducing infringement of the '728 patent in violation of 35 U.S.C. § 271, by, including but not limited to,

making, using, importing, selling and/or offering to sell the Endeavor stent in the United States for use by physicians in coronary angioplasty procedures.

22. Medtronic had and has actual notice of the '728 patent, and is infringing the '728 patent with knowledge of Cordis's patent rights. Medtronic's actions are willful and deliberate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief against Medtronic:

1. For judgment in favor of Plaintiffs that Medtronic is directly infringing, contributorily infringing, and/or inducing infringement of the '781, '146, and '728 patents;
2. For a preliminary and permanent injunction pursuant to 35 U.S.C. § 283 prohibiting Medtronic from making, using, selling, or offering for sale the infringing products in the United States;
3. For an award of damages for Medtronic's infringement of the '781, '146, and '728 patents, together with interest (both pre-and post-judgment), costs, and disbursements as fixed by this Court under 35 U.S.C. § 284;
4. For a determination that Medtronic's infringement is willful, and an award of treble the amount of damages and losses sustained by Plaintiffs as a result of Medtronic's infringement, under 35 U.S.C. § 284;
5. For a determination that this is an exceptional case within the meaning of 35 U.S.C. § 285, and an award to Plaintiffs of their reasonable attorneys' fees; and
6. For such other and further relief in law or in equity to which Plaintiffs may be justly entitled.